

Notice of Allowability

Application No. 09/933,540

Applicant(s) BARRITZ, ROBERT

Examiner VAN H. NGUYEN

Art Unit 2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicant's arguments and the TD filed October 19, 2006.
2. ☒ The allowed claim(s) is/are 1-7, 9-21, and 26-33 (now renumbered as 1-28).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

1. This communication is responsive to the Amendment and the Terminal Disclaimer filed October 19, 2006.

Claims 1-7, 9-21, and 26-33 are pending in this application. By this Examiner's amendment, claims 22-25 have been cancelled and claim 28 has been amended.

2. **EXAMINER'S AMENDMENT:**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Max Moskowitz (Reg. No. 30, 576) on October 26, 2006.

The application has been amended as follows:

In the Claims:

- (a) Claims 22-25 have been cancelled.**
- (b) All previous copies of claim 28 have been replaced with the following clean copy of claim 28 as amended by the Examiner's amendment:**

Claim 28. A system for determining program usage on a computer, the system comprising:

a plurality of executable software programs constituting software products, each of the software products being constituted of one or more load modules, the load modules being stored in at least one memory of the computer;

an operating system of the computer that controls execution in the computer of software products through the invocation of respective load modules thereof;

a monitor that collects load module execution information reflecting the usage of software products on the computer;

a filtering facility that is effective to filter at least one previously identified program from the load module execution information;

a correlator that correlates the load module execution information with data that associates load module names with corresponding software products and develops a list of software products executed in the computer over the course of a selected time period;

a library source determination facility that determines the load library from which each executed load module has been loaded; and

a reporter that outputs data showing the directory paths for load modules that have been executed.

3. **REASONS FOR ALLOWANCE:**

The drawings submitted on August 20, 2001 are acceptable.

Applicant has filed the Terminal Disclaimer to overcome the nonstatutory double patenting rejection. The Double Patenting rejection is withdrawn.

Claims 1-7, 9-21, and 26-33 are allowed.

The following is an examiner's statement of reasons for allowance:

The prior art does not expressly teach or render obvious the invention as recited in independent claims 1, 15, 26, and 28.

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The features as recited in independent claims 1, 15, 26, and 28 *“a filtering facility that is effective to filter at least one previously identified program from the load module execution information; a correlator that correlates the load module execution information with data that associates load module names with corresponding software products and develops a list of software products executed in the computer over the course of a selected time period”*, when taken in the context of the claims as a whole, was not uncovered in the prior art teachings.

Nor were references uncovered that would have provided a basis of evidence for asserting a motivation that one of ordinary skill level in the art at the time the invention was made, knowing of a system for determining program usage on a computer in this specific environment, would have integrated or modified to teach the system for auditing software systems by monitoring the use and non-use of software programs in a computer including the specific features as recited in the context of independent claims 1, 15, 26, and 28.

Dependent claims are allowed as they depend upon allowable independent claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAN H. NGUYEN whose telephone number is (571) 272-3765. The examiner can normally be reached on Monday-Thursday from 8:30AM - 6:00PM. The examiner can also be reached on alternative Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM THOMSON can be reached at (571) 272-3718.

The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner for patents
P O Box 1450
Alexandria, VA 22313-1450



Van H. Nguyen
Patent Examiner, AU 2194